

### 37.503

(2) Obtained through personal service contracts authorized by statute;

(3) For construction as defined in 2.101; or

(4) Obtained through interagency agreements where the work is being performed by in-house Federal employees.

(b) Services obtained under contracts below the simplified acquisition threshold and services incidental to supply contracts also are excluded from the requirements of this subpart. However, good management practices and contract administration techniques should be used regardless of the contracting method.

[62 FR 12694, Mar. 17, 1997, as amended at 66 FR 2133, Jan. 10, 2001]

### 37.503 Agency-head responsibilities.

The agency head or designee should ensure that—

(a) Requirements for services are clearly defined and appropriate performance standards are developed so that the agency's requirements can be understood by potential offerors and that performance in accordance with contract terms and conditions will meet the agency's requirements;

(b) Service contracts are awarded and administered in a manner that will provide the customer its supplies and services within budget and in a timely manner;

(c) Specific procedures are in place before contracting for services to ensure that inherently governmental functions are performed by Government personnel; and

(d) Strategies are developed and necessary staff training is initiated to ensure effective implementation of the policies in 37.102.

[62 FR 12694, Mar. 17, 1997, as amended at 65 FR 36014, June 6, 2000; 71 FR 20300, Apr. 19, 2006]

### 37.504 Contracting officials' responsibilities.

Contracting officials should ensure that "best practices" techniques are used when contracting for services and in contract management and administration (see OFPP Policy Letter 93-1).

## 48 CFR Ch. 1 (10-1-14 Edition)

### Subpart 37.6—Performance-Based Acquisition

SOURCE: 71 FR 218, Jan. 3, 2006, unless otherwise noted.

#### 37.600 Scope of subpart.

This subpart prescribes policies and procedures for acquiring services using performance-based acquisition methods.

#### 37.601 General.

(a) Solicitations may use either a performance work statement or a statement of objectives (see 37.602).

(b) Performance-based contracts for services shall include—

(1) A performance work statement (PWS);

(2) Measurable performance standards (*i.e.*, in terms of quality, timeliness, quantity, etc.) and the method of assessing contractor performance against performance standards; and

(3) Performance incentives where appropriate. When used, the performance incentives shall correspond to the performance standards set forth in the contract (see 16.402-2).

(c) See 12.102(g) for the use of Part 12 procedures for performance-based acquisitions.

#### 37.602 Performance work statement.

(a) A Performance work statement (PWS) may be prepared by the Government or result from a Statement of objectives (SOO) prepared by the Government where the offeror proposes the PWS.

(b) Agencies shall, to the maximum extent practicable—

(1) Describe the work in terms of the required results rather than either "how" the work is to be accomplished or the number of hours to be provided (see 11.002(a)(2) and 11.101);

(2) Enable assessment of work performance against measurable performance standards;

(3) Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing the work.

(c) Offerors use the SOO to develop the PWS; however, the SOO does not